



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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SERIAL NO.: 09/892,061 GROUP: 1744

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FOR: System and Method for Optically Monitoring the Concentration of a

Gas, or the Pressure in a Sample Vial to Detect Sample Growth.

Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450

## **DECLARATION UNDER 37 C.F.R. § 1.131**

- 1. We, the undersigned, are inventors on the above-captioned patent application.
- 2. Prior to July 13, 2000, we reduced to practice, in the United States, a system for detecting growth of microorganisms in a sample in a container, the system having: a plurality of containers, a module having a plurality of openings for receiving the containers, a tunable laser configured to emit a beam through at least one container, a detector for detecting the light passing through the container, and a signal analyzer for analyzing the detected light. All experiments described herein were performed prior to July 13, 2000, in the United States.
- 3. The BD BACTEC 9050 is an instrument for determining microbial growth in sample containers, and contains a circular panel for holding multiple containers. We modified a BD BACTEC 9050 by providing a tunable laser and a photodiode, with the tunable laser configured to emit a beam through a container, and the photodiode configured to detect the light passing through the container. See Figures 1-3 below, which show various experimental configurations of the modified BACTEC 9050. Figure 1 shows a close up of a laser and detector with a single container. Figures 2 and 3 show configurations with multiple containers, and also showing a laser and detector.